

MINUTES
STATE BOARD OF DENTISTRY
DECMEBER 6, 2019

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Dr. Mara Catey-Williams called the meeting to order at 9:00 a.m. in the Professional Licensing Agency Conference Room W064, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana, and declared a quorum in accordance with Indiana Code § 15-5-1.1-6(c).

Board Members Present:

Mara Catey-Williams, D.M.D., President
Richard R. Nowakowski, D.D.S., Vice President
Jeffrey L. Snoddy, D.D.S.
Gregory A. Berger, D.D.S.
Annette J. Williamson, D.D.S.
Jennifer K. Bartek, L.D.H., M.S., C.D.A.
R. Daron Sheline, D.D.S.

Board Members Not Present:

Ted M. Reese, D.D.S., Secretary/Designee
Mark R. Stetzel, D.D.S.
Robert D. Findley, D.D.S.
Consumer Member, Vacant

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Dana Brooks, Assistant Board Director, Professional Licensing Agency
Claire Dyer, Deputy Attorney General, Office of the Attorney General
Philip Gordon, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF AGENDA

A motion was made and seconded to adopt the agenda, as amended.

Williamson/Nowakowski
Motion carried 7-0-0

III. ADOPTION OF THE MINUTES:

The minutes from the October 4, 2019 and December 6, 2019 meeting were amended and edited. Minutes were tabled for approval for corrections to be made.

IV. PERSONAL APPEARANCES

A. PROBATION

- 1. Ronald E. Deckard, D.D.S., License No. 12007982A**
Cause No. 2015 ISBD 0005

Dr. Deckard appeared as requested to discuss his ongoing probation with the Board. Dr. Deckard has had no employment or living changes. During his current clinical practice with Remote Area Medical he has screened over 500 patients. Clinics are located in different states such as Kentucky, Ohio, Missouri, West Virginia and Virginia. Dr. Deckard does not have a controlled substance log book for review. Dr. Deckard does not write prescriptions for controlled substances as part of his clinical practice. While he does have a CSR and DEA, he does not use it. Instead he will refer to other Dentists to prescribe Controlled Substances for any of his patients. While Dr. Decker's employer caters to locations across the country, he only practices at locations in the surrounding States of Indiana. His paperwork to work in those States is handled through the employer. The Board urges Dr. Decker to look into the paperwork handled by his employer to ensure that he is practicing correctly in the other States as part of his employment. Dr. Deckard is in compliance with his probationary terms. Dr. Deckard's next probationary appearance is scheduled for August 7, 2020.

2. Michael Foster, D.M.D., License No. 12013301A
Cause No. 2020 ISBD 0001

Dr. Foster appeared as requested to discuss his ongoing probation with the Board. This is Dr. Foster's first appearance since being placed on probation on January 3, 2020. As part of his probation Dr. Foster will be required to appear at every meeting for the first year and every six months thereafter. Dr. Foster is currently employed in Smiles by Arnold in Valparaiso, and is enrolled in the IDA Well-Being Program. He is currently in compliance with his program and his employment is aware of his current probation. Dr. Foster stated that his license number on the agenda was incorrect. After review the license number he thought was his was another dentist in the office. The Board stated that he cannot work under another dentist license number. Dr. Foster's next probationary appearance is scheduled for April 3, 2020.

3. David Lapsey, D.D.S., License No. 12009301A
Cause No. 2018 ISBD 0005

Dr. Lapsey appeared as requested with legal counsel, Melissa Wray, to discuss his ongoing probation with the Board. He is self-employed and enrolled in the IDA Well-Being Program until 2023. Dr., Lapsey is in compliance with the program and is receiving therapy as part of the program. The Court Ordered Pretrial Diversion Agreement was dismissed on June 7, 2019. Dr. Lapsey is currently working an average of 4 days per week, 5 hours per day, due to physical limitations of a previous neck and back surgery. The Board reviewed a report of his current therapy progress with positive results. Dr. Lapsey's next probationary appearance is scheduled for December 4, 2020.

4. Samuel Osobu, D.D.S., License No. 12012451A
Cause No. 2016 ISBD 0007

Dr. Osobu was unable to appear. He will be rescheduled for the April 3, 2020 meeting.

B. RENEWALS

1. Dwane Richard Bruick, D.D.S., License No. 12008370A

Dr. Bruick appeared as requested to discuss his positive response to the question "Since you last renewed, have you had a malpractice judgment against you or settled a malpractice

e action regarding your license to practice dentistry?" on his renewal. Dr. Bruick discussed a recent medical malpractice suit in which a broken tooth was extracted and an implant was performed. The patient returned complaining of pain in the implant area and sought a second opinion. Additionally, the Board reviewed the Dr. Bruick's prior history with the Board and found a pattern of questionable care. Dr. Bruick informed the Board that he works forty (40) hours per week and has been doing reconstructive surgery since 1990. Dr. Bruick was disciplined by the Board in 2014 and 2017. Dr. Bruick has complied with the previous Board Orders and met all of the terms and conditions.

Board Action: A motion was made and seconded to deny Dr. Bruick's renewal and file a complaint with Consumer Protection requesting an investigation regarding standard of care issues.

Catey-Williams/ Nowakowski

3/3/1 Motion failed

Board Action: A motion was made and seconded to place Dr. Bruick's license on probation for a period of one year with the following terms and conditions:

1. The Applicant's license to practice dentistry is renewed on indefinite probation with no right to petition for removal of the probation for not less than one (1) year from the date of the order.
2. The Applicant's practice of dentistry shall be governed by the following terms and conditions:
 - a. He shall make quarterly personal appearances before the Board.
 - b. He shall have a practice monitor complete both a clinical review and chart review quarterly which should include, but not be limited to, surgical and restorative procedures. The Practice Monitor must:
 - i. Be approved by the Board;
 - ii. Must be a current member of the Isaac Knapp Dental Society; and
 - iii. Must have a minimum of five (5) years of experience practicing dentistry.
 - c. Submit quarterly written reports from the practice monitor detailing the chart review and clinical review to the Board.
 - d. Keep the Board apprised of his current contact and employment information including address, telephone number, and email address.
 - e. He shall comply with the statutes and rules governing the practice of dentistry.
3. The failure of the Applicant to comply with the terms of his probation may subject him to a show cause hearing and the possible imposition of further sanctions.

Sheline/Williamson

Motion carried 6/1/0

2. David B. Dowling, D. D.S., License No. 12012628A

Dr. Dowling will be rescheduled for the April 3, 2020 meeting.

3. David Lewis Judy, D.D.S., License No 12007871A

Dr. Judy will be rescheduled for the April 3, 2020 meeting.

4. Erika Anne Martin, L.D.H., License No. 13004386A

Ms. Martin appeared as requested to discuss her positive response to the question "Since you last renewed, and except for minor violation of traffic laws resulting in fines and arrests or convictions that have been expunged by a court, have you been arrested, entered into a diversion agreement, been convicted of, pled guilty to, or pled nolo contendere to any offense, misdemeanor, or felony

in any state or US territory?” In May of 2019, Ms. Martin was arrested to Operating a Vehicle with an ACE of .08 or more, a Class C Misdemeanor. Ms. Martin was placed on probation in September of 2019 and has successfully completed the terms of her probation. Currently Ms. Martin is waiting on the official orders showing completion of her probation.

Board Action: After review of the documents presented, a motion was made and seconded to approve Ms. Martin’s license renewal application.

Bartek/Snoddy
Motion carried 7/0/0

5. Kenneth Patterson, D.D.S., License No. 12011558A

Dr. Patterson appeared as requested to discuss his positive response to the question “Since you last renewed, have you had a malpractice judgment against you or settled a malpractice action regarding your license to practice dentistry?” on his renewal. Dr. Patterson submitted a statement of a settlement in August of 2018 and copies of the agreement and a summary of the incident for the Board’s review. Dr. Patterson has not had any other settlement cases since 1998 when he was in California, which has already been addressed by the Board. As a result of the incident, Dr. Patterson voluntarily took additional courses for Oral Conscience Sedation and Advanced Practice Procedures.

Board Action: A motion was made and seconded to approve Dr. Patterson’s license renewal application.

Catey-Williams/ Nowakowski
Motion carried 7/0/0

C. REINSTATEMENT

1. Michelle E Buchanan, L.D.H., License No. 13005064A

Ms. Buchanan appeared are requested to discuss her application to reinstate her inactive dental hygiene license which expired on March 1, 2006. Since the expiration of her license she has been a stay at home mom. She was approached by her previous employer to return to work and she decided to reinstate her license. Ms. Buchanan submitted completion of thirty-five (35) hours of continuing education; however, upon further review of the continuing education certificates by the Board she was short seventeen (17) continuing education hours.

Board Action: A motion was made and seconded to approve the reinstatement of the inactive license pending the completion of seventeen (17) additional continuing education hours approved by the board and passing the jurisprudence exam. The hours required to complete are:

1. 3 hours of Powered scaling
2. 6 hours of Advanced Instrumentation
3. 2 hours of Digital Radiographs
4. 2 hours of Panoramic
5. 2 hours of OSHA
6. 1 hour of HIPPA
7. 1 hour of Implant Care

Bartek/Nowakowski
Motion carried 7/0/0

2. APPLICATIONS

1. Marjorie M. Cabell (D.M.D.)

Dr. Cabell appeared before the Board, as requested, regarding her application for dental licensure. Dr. Cabell is a 1996 graduate of Texas Southern University and has passed the Nation Board of Dental Examiners Part I & II and the CDCA examination. She holds a current license in the state of Georgia and has an expired license in the state of Pennsylvania. Dr. Cabell did not respond yes to any question on the application. Dr. Cabell informed the board that an incident had occurred approximately 4 years ago. She was issued a speeding ticket and charged for being a distracted driver. Dr. Cabell paid the ticket and the issue was resolved. During that time, the police department that handled the records started to digitize their process, and an error occurred showing that she did not pay the ticket. A warrant was issued and she did not realize this had occurred until she was pulled over due to failing to stop at a stop sign. Since that time this matter has been resolved. There have been no other issues or concerns since that incident.

Board Action: A motion was made and seconded to approve Dr. Cabell's dental license application pending the jurisprudence examination.

Bartek/ Sheline

Motion carried 7/0/0

2. Muhammad U. Seyal (D.M.D.)

Dr. Seyal was unable to appear. He will be rescheduled to appear on April 3, 2020.

3. Jadalyn X. Tindall (L.D.H.)

Ms. Tindall appeared before the Board, as requested, regarding her application for dental hygiene licensure. Ms. Tindall is a 2018 graduate of Indiana University South Bend and passed the National Board of Dental Hygiene Examiners and the CDCA examination. Ms. Tindall responded positive to "Except for minor violations of traffic law resulting in fines, and arrests or convictions that have been expunged by a court, (a) have you ever been arrested; (2) have you ever entered into a prosecutorial diversion or deferment agreement regarding any offense misdemeanor, or felony in any state; (3) have you ever been convicted of any offense, misdemeanor, or felony in any state; (4) have you ever pled guilty to any offense, misdemeanor, or felony in any state; or (5) have you ever pled nolo contendere to any offense, misdemeanor, or felony in any state?" In March of 2016 she was arrested in Panama City, Florida and charged with Alcohol Beverage Possession by Minor which is a Misdemeanor. She entered into a Pretrial Diversion and which was completed in June of 2016. On June 3, 2016 she was charged with Illegal Possession of an Alcoholic beverage, Possession of False Identification and Minors in Tavern. She entered into a Pretrial Diversion Agreement which was completed in August 31, 2018. The Board expressed concerns that the incident was not disclosed to her program. Ms. Tindall informed the board that the incident happened after the background check portion of the program was completed. She was unnerved by the incident, and as a result she became more cautious and aware of her alcohol intake.

Board Action: A motion was made and seconded to approve Ms. Tindall's dental hygiene license application pending the jurisprudence examination.

Bartek/Nowakowski

7/0/0

V. ADMINISTRATIVE HEARINGS

A. Mathew Negrelli, D.D.S., License No. 12009878A

Administrative Cause No. 2019 ISBD 0005

Re: Summary Suspension Extension and Motion To Vacate

Parties Present:

Respondent was present without counsel
Alyssa Servies, Deputy Attorney General for the State of Indiana
Margie Addington, Court Reporter, Accurate Court Reporting

Participating Board Members:

Dr. Catey-Williams, D.M.D., President
Dr. Nowakowski, D.D.S., Vice President
Dr. Snoddy, D.D.S.
Dr. Berger, D.D.S.
Dr. Sheline, D.D.S.
Dr. Williamson, D.D.S.
Ms. Bartek, L.D.H., M.S., C.D.A.

Case Summary: On or around July 29, 2019, the State filed a Petition for Summary Suspension in the matter of Respondent's dentist license. In or around October 2018, Respondent had contacted the Program stating that he had a relapse and thought returning to the Program would help stabilize his recovery. On or around October 2, 2018, Respondent signed a Continuing Care Contract with the Program. On or around December 26, 2018, Respondent relapsed and was ordered by the Program to obtain a fitness for duty evaluation. The evaluation occurred in May 2019. Respondent was not cleared to return to work and he was advised that the tests could be retaken in three (3) months. On or around May 24, 2019 was the last time any contact was made between the Respondent and the Program. On or around June 7, 2019, the board was informed that Respondent was in non-compliance with his IDA Well-Being Contract. A summary suspension was issued. The Summary Suspension was renewed at the October 4, 2019 and December 2, 2019 meeting. The State filed a "Motion to Vacate" on January 16, 2020. The State informed the Board that there was no evidence on proving a clear and immediate danger of Respondent. Respondent has not practiced for the past 2 years. The State continued that the Respondent has not worked since 2018 and thus he cannot be charged with being an immediate danger. Respondent had relapsed in October of 2018 and contacted the IDA Wellness Program where he signed a contract. He completed an inpatient program and was advised not to work. As of May of 2019 the IDA Wellness Program was unable to correspond with Dr. Negrelli. He was found in noncompliance. Respondent admitted that he did not respond to any of their requests. Dr. Negrelli has not practiced since April of 2018 but he wants to renew his license. At this time, the State moved to withdraw the "Motion to Vacate" in light of this new information.

Board Action: A motion was made and seconded to grant the State's request to withdrawal the Motion to Vacate. Motion carried by a vote of 7/0/0.

The hearing to consider the extension of the summary suspension was heard. The State inquired with the Respondent on his involvement in IDA Wellbeing programs. The Respondent informed the State that his first involvement was in 2009 in Columbus where he was diagnosed with alcohol use disorder. He was enrolled in a Well Being Program from 2009 to 2015 where he eventually completed the program. In 2018 he had a relapse and has not had a formal evaluation of the relapse. Respondent did inform the State that he is currently enrolled in AA and has met with his sponsor every day for the past year. He is currently enrolled in a program with Regional Mental Health as an outpatient. The State inquired on why he discontinued his practice in 2018. Respondent informed the State that he knew his license was going to be

suspended. He did indicate that he would have continued practicing if he knew that the suspension was not going to occur. The State asked the Board to extend the summary suspension of Respondent's license.

Board Action: A motion was made and seconded to extend the summary suspension for an additional ninety (90) days.

Nowakowski/Snoddy
Motion carried 7/0/0

B. William J. Downie, D.D.S., License No. 12011611A

Administrative Cause No. 2020 ISBD 0002

Re: Petition for Summary Suspension

Parties Present:

Respondent was not present or represented by counsel
Alyssa Servies, Deputy Attorney General for the State of Indiana
Sherri Rutledge, Court Reporter, Rutledge Independent Reporting

Participating Board Members:

Dr. Catey-Williams, D.M.D., President
Dr. Nowakowski, D.D.S., Vice President
Dr. Snoddy, D.D.S.
Dr. Berger, D.D.S.
Dr. Williamson, D.D.S.
Dr. Sheline, D.D.S.
Ms. Bartek, L.D.H., M.S., C.D.A.

Case Summary: On or about February 4, 2020 a Petition for Summary Suspension of the Respondent's Dental license was filed by the State. This is in response to the multiple complaints filed against the Respondent license since at or around 2016 with concerns of substandard care to the Respondent's patients. The OAG submitted a Subpoena Duces Tecum on November 20, 2019 for Respondents patient records. Respondent emailed the OAG requesting extension. Extension was granted on November 21, 2020 with a deadline of November 22, 2019. Respondent did not submit records by deadline. As of February 4, 2020 the OAG has not received patient records from Respondent. The State submitted Exhibit A of business records of patient 1. The State submitted Exhibit B of business records of patient 2. The State submitted Exhibit C of business records of patient 3. The State called Rodney Crawford, the case analyst, to verify the process to obtain Respondent's patient records as part of the Subpoena Duces Tecum. R.C. verified that nothing extenuating on their end prevented Respondent from responding. The State then called Rebekah Legg, OAG consumer complaint investigator, who corroborated Mr. Crawford's account of the request for Respondent's patient records. Ms. Legg informed the Board that records were finally submitted January 31, 2020 for patient 1. The State then called patient Josh Wheeler to give a statement and answer any questions. Patient informed the Board that he and his family had gone to Respondent on a recommendation and due to financial concerns. Patient 1 had braces put on by the Dental Hygienist on staff in Respondent's office. Patient rarely saw Respondent, and Respondent only looked over the work for brief periods of time. During one braces adjustment, the Dental Hygienist recommended that the Patient get their wisdom teeth removed. An appointment was scheduled for removal, but on date of appointment Respondent did not show as he was out sick. Patient and family did not receive notification of schedule change. Rescheduled wisdom teeth extraction at later date. During the procedure Respondent only provided numbing powder and

Respondent had difficulty removing one of the teeth. Respondent recommended another day after procedure had started and attempts were made to extract the tooth. Respondent had staff escort the Patient and family out the back of the office. Patient later went to the ER that night and had emergency surgery to remove the tooth with sedation. Dr. Bourell, DDS, took x-rays of the Patient for records and highly recommended that the braces to be removed and redone as they were put on incorrectly. Patient and family indicated that Respondent never contacted them after incident. The State called Laura Wheeler, Mother of Josh Wheeler to give a statement. Ms. Wheeler informed the Board that Respondent charged them a number of different consulting fees and Respondent gave recommendation to have wisdom teeth removed. Ms. Wheeler confirmed that Respondent did not stay in contact with them regarding appointment times and schedule changes. During appointment for wisdom teeth extraction, the Dental Hygienist informed the Patient and family on procedure and updates, not the Respondent. During the procedure Respondent came out and informed family member that there were complications, and that the Patient might need to go to the Emergency Room. Respondent informed the family member that they can bill Respondent for the sedation. Respondent then moved onto a new patient and the Patient and family member were taken out the back office. Family member then took Patient 1 to ER after a stop at Walmart to pick up pain medication script. The Board inquired if Patient 1 was coherent and walking. Family member said yes, however they were in very swollen and in pain. The family member continued informing the Board that they then took Patient 1 to the ER where they were x-rayed and then taken to emergency surgery once swelling had receded enough on recommendation of the oral surgeon. Family member did attempt to follow up with Respondent on incident. Respondent only talked to Ms. Wheeler over the phone and inquired into the Patient's status as an afterthought. Ms. Wheeler did send the bill to Respondent for the incident, however Respondent has not paid any reimbursements at this time. The State then called Kathy Mallett, mother of Patient 2, to give a statement. Ms. Mallett had gone to Respondent before for routine cleaning for her and her family. During one of the cleanings Respondent recommended a root canal on a dead tooth, and that an implant would be put in place. Respondent also recommended wisdom teeth removal. Tooth extractions were done at two different appointments due to long wait time, and laughing gas was provided. At last appointment the Dental Hygienist came out to inform family member of complications on Patient 2 and that an oral surgeon was recommended to complete the extraction. Patient 2 later had difficulties after root canal failed and Respondent recommended an implant. Ms. Mallett was not given any post of pre-op directions for Patient 2, and complications occurred after procedure. Respondent did not return any communications that Ms. Mallett attempted. Respondent did get in contact with Ms. Mallett through Facebook at a later time and an appointment was scheduled to put in temporary crown. Respondent did not stay in room long when follow up procedure was done, Dental Hygienist did majority of the work. Temporary crown did not hold in time, and family member had difficulty scheduling appointment for permanent fix of issue. Temporary crown had fallen out 4 times before family member went to different dentist. The State then called Patient 2 to give statement. Patient 2 informed the Board of the different appointments and procedures that occurred with Respondent. During time with temporary fix of her tooth and first fallen out, Respondent had looked at the temporary crown, and then proceeded to place it back in. Respondent then told Patient 2 to baby the temporary crown until a permanent one could be made. Patient 2 had taken a picture of the fix and showed it to the Board. The State then closed by saying that Respondent has shown a clear and present danger to society and affirming that he is not practicing safely. The State moved the Board to suspend his license indefinitely.

Board Action: A motion was made and to summarily suspend Dr. Downie's dental license for a period of ninety (90) days.

Catey-Williams/ Nowakowski

Motion carried 7/0/0

VI. APPLICATION FOR REVIEW

A. Endorsement

1. Thomas J. Schaffer (D.D.S.)

The Board reviewed the application for endorsement as submitted by Dr. Schaffer. Dr. Schaffer is a 2015 graduate of Loma Linda University of Dentistry and has taken and passed NBDE I and II and WREB examination. Dr. Schaffer has been completing an anesthesia residency at St Barnabas Hospital, in Bronx, New York since July of 2017. He is currently licensed in the state of Michigan. Dr. Schaffer has requested to use his residency for the required twenty (20) hours of continuing education required for licensure by endorsement. Before the Board can act on his application, they requested further information regarding the lectures, course titles, and programs that Dr. Schaffer completed as part of the residency program.

Board Action: A motion was made and seconded to table the application until further information has been submitted regarding Dr. Schaffer's residency program.

Catey-Williams/ Nowakowski
Motion carried 7/0/0

B. Dental Charitable Permit

1. Richard L. Beckermeyer (D.D.S.)

The Board reviewed two applications for a Dental Charitable Permit as submitted by Dr. Beckermeyer. Dr. Beckermeyer has requested a charitable permit for the ACHI/South Bend Century Center for March 2020 and Pathways/Lucas Oil Stadium for April 2020.

Board Action: A motion was made and seconded to approve both applications for a Dental Charitable Permit for Dr. Beckermeyer.

Bartek/Williamson
Motion carried 7/0/0

VII. DISCUSSION

A. Compliance Fund

The Compliance fund and report must be reviewed annually. Dr. Matt Miller currently holds a contract with the Office of the Attorney General as the compliance officer for the Dental Board. The Board discussed the compliance officer duties and what he can do based upon the Board's request. Laura Iosue, Deputy Attorney General, participated in discussion regarding this matter. The Board discussed the possibility of the contract being modified to include follow up to the Board on specific individuals rather than providing a recommendation. Currently the Compliance Officer is only required to submit progress reports to the Board and IPLA. Ms. Iosue stated that if the Board has any request of the Compliance Officer to the send the request to her. Further discussion was tabled until a later date.

VIII. REPORTS

A. Indiana Dental Association

The IDA discussed HB 1008 which would allow reciprocity for all professional licenses. The IDA is currently opposed to the new legislation as the language in the proposed bill is too broad. There are concerns with educational and examination standards that causes concern. The IDA also discussed the current definition of dentistry. They have recommend that the State use the ADA definition that is currently used by 35 other state boards.

B. Attorney General

Alyssa Servies there are an average number of open and closed complaints with no alarming trends at this time. Tina Mann is no longer working in the capacity for the Medial Board in the AG's office and has moved to a different department. Informed the Board that there will be a new Deputy Director over professional licenses soon.

IX. OLD/NEW BUSINESS

There is no new or old business to discuss at this time.

X. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the State Board of Dentistry adjourned at 5:24 p.m. by general consensus.

Mara Catey-Williams, D.M.D., President

Date

Richard R. Nowakowski, D.D.S., Vice President

Date